

Part I

Section 704.-Partner's Distributive Share

Rev. Rul. 2005-10

Rev. Rul. 2004-43, 2004-18 I.R.B. 842, issued on April 12, 2004, addresses the application of §§ 704(c)(1)(B) and 737 to § 704(c) gain or loss that is created in an assets-over partnership merger. Rev. Rul. 2004-43 holds that § 704(c)(1)(B) applies to newly created § 704(c) gain or loss in property contributed by the transferor partnership to the continuing partnership in an assets-over partnership merger, but does not apply to newly created reverse § 704(c) gain or loss resulting from a revaluation of property in the continuing partnership. The revenue ruling also holds that for purposes of § 737(b), net precontribution gain includes newly created § 704(c) gain or loss in property contributed by the transferor partnership to the continuing partnership in an assets-over partnership merger, but does not include newly created reverse § 704(c) gain or loss resulting from a revaluation of property in the continuing partnership.

Some commentators have argued that Rev. Rul. 2004-43 is not consistent with the current regulations under §§ 704(c)(1)(B) and 737, and that the conclusions in the ruling should not be applied retroactively. In response to these comments, the Treasury Department and the Service intend to issue regulations under §§ 704(c)(1)(B) and 737

implementing the principles of Rev. Rul. 2004-43. The regulations will be effective for distributions occurring after January 19, 2005. See Notice 2005-15, published in this issue of the Internal Revenue Bulletin.

EFFECT ON OTHER REVENUE RULING(S)

Rev. Rul. 2004-43 is revoked.

DRAFTING INFORMATION

The principal author of this revenue ruling is Laura Fields of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Ms. Fields at (202) 622-3050 (not a toll-free call).